



BioEnergy Producers Association
Clean Technology for Renewable Energy

James L. Stewart
Chairman of the Board

August 11, 2011

David Roberti, Senator (Ret.)
President

Kay Martin
Vice President

The Honorable Mary Nichols
California Resources Board
1001 I Street
Sacramento, CA 95814-2828
Dear Ms. Nichols:

**COMMENTS ON PROPOSED REGULATION: CALIFORNIA
CAP ON GREENHOUSE GAS EMISSIONS (GHGE) AND
MARKET-BASED COMPLIANCE MECHANISMS (15-DAY
MODIFICATIONS RELEASED FOR PUBLIC COMMENT ON
JULY 25, 2011)**

Dear Ms. Nichols:

The Bioenergy Producers Association (BPA) was formed in 2004 to advance the development and commercialization of sustainable, environmentally preferable industries that produce alternative energy from agricultural, forestry, and urban sources of biomass and plastic wastes.

Biomass in all its forms, and specifically solid waste, constitutes one of California's most practical and readily available sources of energy. The recycling of the carbon to be found in solid waste and its conversion into advanced, non-food derived biofuels and electricity is one of California's most powerful, untapped pathways to a better environment and energy independence. The Air Resources Board has identified solid waste as one of the most appropriate feedstocks available to assist in meeting its goals for the Low Carbon Fuels Standard.

We appreciate modifications to the proposed cap and trade regulations released by the Air Resources Board (ARB) on July 25, 2011. Specifically, our Association strongly supports the decision by the ARB to remove the language in Section 95852.2 (7, B) that would have established criteria for the conversion processes that are producing a clean burning fuel from the biogenic fraction of the Municipal Solid Waste stream.

The Honorable Mary Nichols
August 11, 2011
Page Two

These criteria are applicable only to *gasification* in the Public Resources Code, and are used to determine if a gasification facility is defined as a solid waste disposal facility and if the energy produced qualifies as renewable under the Renewable Portfolio Standard.

Applying these criteria to all technologies that produce a clean-burning fuel in determination of GHGE reductions would be a misinterpretation of State Statute. We are pleased that the ARB is establishing clear policy based on sound science that all biogenic emissions are climate neutral.

In 2010, California placed in landfills 30.4 million tons of post-recycled municipal solid waste, enough carbon to co-produce at least 1.5 billion gallons of ethanol and 1200 MW of power. Incidentally, this represented a 700,000-ton reduction in the disposal rate from the previous year, not resulting from increased recycling, but from reduced population, because the daily per capita disposal rate remained the same.

There will be very little growth in renewable energy production in from organic waste materials in California unless the legislature establishes a business climate that encourages private capital to invest, and emerging bioenergy technologies to operate, in this state.

Currently, some 550 companies across North America are pursuing processes and technologies related to the production of advanced biofuels, chemicals and/or electricity from organic waste. However, despite the interest expressed in these new technologies by at least 16 jurisdictions in the state, and the decade-long effort by some of these agencies to implement these technologies, this industry is virtually at a standstill in California.

In fact, California-based bioenergy companies have now located in other states, or actually moved out of the state, something approaching \$1 billion in capital expenditures for waste-to-clean energy conversion technologies, essentially in frustration resulting from the statutory and regulatory environment with which they would be forced to deal.

In the previous session of the legislature, this Association sponsored comprehensive legislation to correct scientifically inaccurate definitions in statute and implement other measures that would give this industry assurances that it could function on a reasonable basis in the state. We applaud the Energy Commission, the Air Resources Board and CalRecycle for joining 100 other statewide stakeholders in endorsing that legislation.

The Honorable Mary Nichols
August 11, 2011
Page Three

The bill, AB 222, passed the Assembly and was anticipating final passage in the Senate and signature by the Governor, when the five Democrats on the Senate Environmental Quality Committee, with concurrence from the staff of the President Pro Tern, gutted and essentially reversed the goals of this legislation, forcing it to be abandoned.

Late last year CalRecycle issued several rulings that specific companies could meet the gasification definition, thereby qualifying for RPS and landfill reduction credit. Subsequently, the staff of the President Pro Tern demanded that the Governor rescind that ruling, a blunt statement that the legislature of this state is not interested in enabling this critical new industry to operate in California, a message which totally disregards its potential contribution to renewable energy production, energy independence, an improved environment and in-state investment and jobs generation. We trust that the Brown Administration will hold firm on these rulings.

Our Association applauds the administration for taking the initiative, through its Bioenergy Interagency Working Group, to author and pursue the state's BioEnergy Action Plan, and we urge you to hold fast to meeting its goals.

In response to those who have attempted to suppress the introduction of waste-based bioenergy technologies in California during the past decade, and who are now urging the Air Resources to back off the decisions addressed in this letter, we would state that the concept of achieving zero waste via source reduction and increased recycling alone is a pipe dream. Conversion technology providers have stipulated that they will only process post-recycled waste, fully protecting the interests of the current recycling industry and the existing waste hierarchy.

Even if the state were able to achieve 75% recycling by 2020, which we believe will be impossible without new technologies and approaches for the recycling of carbon, it would still be landfilling approximately 25 million tons of solid waste per year. And even if the state could reach a goal of 75% recycling during the next nine years, California will landfill at least another 225 million tons of solid waste in the interim. The production of renewable energy would seem to be a better alternative than the generation of methane from landfills.

Sincerely,

James L. Stewart
Chairman of the Board